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HUMAN RIGHTS COMMITTEE

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 40 OF THE COVENANT

Comments of the Human Rights Committee

DOMINICAN REPUBLIC

1. The Committee considered the third periodic report of the Dominican Republic (CCPR/C/70/Add.3) at its 1213th to 1215th meetings held on 25 and 26 March 1993 and adopted 1/ the following comments.

A. Introduction

2. The Committee welcomes the third periodic report of the Dominican Republic and the opportunity to continue its dialogue with the State party. The Committee notes, however, that the information provided in the report was in many respects incomplete and did not take into account the dialogue that had taken place during the Committee's consideration of the previous report. The Committee would also have appreciated a more candid appraisal by the State party of existing legislative deficiencies as well as factors and difficulties encountered in the application of the Covenant. The third periodic report added little to what had been reported earlier in that respect and is deemed by the Committee to be insufficient. The Committee, however, expresses its appreciation to the delegation for the report as well as for the additional information it provided in response to questions raised by members of the Committee. However, many questions were not addressed and much of the information which was provided was not sufficiently detailed.

1/ At its 1232nd meeting (forty-seventh session), held on 8 April 1993.

B. Factors and difficulties impeding the application of the Covenant

3. The Committee notes that the Dominican Republic has received large numbers of refugees and foreign workers. It also notes that the State party has had to overcome a legacy of authoritarianism. These and other circumstances may to a certain extent explain why many of the provisions of the Covenant still have not been incorporated into the legal order of the Republic.

C. Principal subjects of concern

4. The Committee notes with regret that, in general, there has been a lack of progress in the application of the Covenant since the consideration of the State party's second periodic report. In particular, there remains a significant body of legislation which still is not in conformity with the Covenant despite the fact that more than 15 years have elapsed since the accession of the Dominican Republic to the Covenant. A number of rights contained in the Covenant are not guaranteed in the present legal framework and other rights are being invalidated by domestic legal provisions that are incompatible with the Covenant. The Committee also regrets that it has not been informed in an unequivocal way about the Covenant's de jure and de facto status within the legal system of the Dominican Republic. In addition, the grounds for declaring a state of emergency are too broad, and the range of rights that may be derogated from is too wide to be in conformity with article 4 of the Covenant. The Committee is also concerned over the lack of adequate knowledge of the provisions of the Covenant by the legal profession, judicial officials and the public at large. Furthermore, the Committee notes that there is no governmental authority specifically responsible for ensuring the observance of human rights standards. In that connection, the Committee notes that there has not been sufficient follow-up to its views adopted under the Optional Protocol but welcomes the promise of the State party for closer cooperation in this regard in the future.

5. The Committee expresses its concern over the lack of protection afforded to Haitians living or working in the country from such serious human rights abuses as forced labour and cruel, inhuman or degrading treatment. The Committee expresses its concern over the fact that the protection of the fundamental human rights of foreigners is subject to reciprocity. The Committee also expresses its concern over the degrading living and working conditions of Haitian labourers and the tolerated practices that effectively restrict their freedom of movement. Although some progress has been made in improving their living and working conditions, particularly with regard to child labour, these remain at an unacceptably low level. Furthermore, while many Haitian workers have been prevented from leaving their place of work, there have also been incidents of mass expulsions from the country. In this regard, the Committee considers that Presidential Decree No. 233-91, which resulted in the mass deportation of Haitian workers under 16 and over 60 years of age, represents a serious violation of several articles of the Covenant.

6. The Committee expresses its concern over the low level of legal protection and effective remedies available to the public concerning arbitrary arrest and lengthy pre-trial detention. The Committee notes with concern the large number of detainees awaiting trial, which is particularly worrisome in view of the high number of cases of alleged police abuse during detention and reports of unhealthy prison conditions. The Committee also underlines that punishment by exile is not compatible with the Covenant. Moreover, the powers and independence of the judiciary do not appear to be sufficiently protected. A judicial order for release should be implemented without question.

7. The Committee expresses its concern over the inadequate protection of the rights of ethnic, religious and linguistic minorities in the Dominican Republic. In this regard, the Committee notes that the prohibition of broadcasting in a language other than Spanish is not in conformity with article 19 of the Covenant. The right of peaceful assembly is apparently not adequately respected by the police.

D. Recommendations

8. The Committee recommends that the State party should undertake a major initiative aimed at harmonizing its domestic legislation with the provisions of the Covenant. In this regard, the Constitution and the relevant civil and penal codes should be reviewed in order to bring the law and its application into line with the provisions of the Covenant. The State party should also consider the establishment of offices and mechanisms to monitor the application of human rights standards and protect and promote human rights. This could include the designation of an independent office to receive complaints and, where necessary, undertake investigations into abuses. More publicity should be given to the provisions of the Covenant and the Optional Protocol in order to ensure that the legal profession, the judiciary and the general public are more aware of their contents.

9. The situation concerning the living and working conditions of Haitian labourers should be addressed as a matter of priority. The State party should ensure the implementation of laws concerning labour standards, including adequate monitoring of working conditions. In this regard, the Committee emphasizes the necessity of strengthening the capacity of the labour inspectorate to effectively monitor the working conditions of Haitian labourers, with a view to ending their slave-like exploitation. Child labourers in particular require a higher level of protection and the relevant international standards should be vigorously applied. There should also be more active enforcement, particularly in the "export zones", of the exercise of trade union rights in conformity with article 22 of the Covenant. Additionally, Presidential Decree No. 233-91 should be abolished rather than merely suspended.

10. The Committee recommends that measures should be immediately undertaken to reduce the backlog of persons in detention awaiting trial and that the number of exceptions to the 48 hour rule should be significantly reduced. Much more severe sanctions are needed to effectively discourage torture and

other abuses by prison and law enforcement officials. Steps should also be taken to tighten the regulations governing the use of firearms by police. Training courses in international human rights standards should be provided for police and prison officials.

11. The Committee recommends that the State party take further steps for the elimination of discrimination concerning ethnic, religious and linguistic minorities and recommends that the relevant legislation be reviewed in order to ensure its conformity with the Covenant.